

TO:	Mail Stop 8	SOLICITOR	REPORT ON THE
	Director of the U.S. Patent and Trademark Office	AUG - 3 2007	FILING OR DETERMINATION OF AN
	P.O. Box 1450	U.S. PATENT & TRADEMARK OFFICE	ACTION REGARDING A PATENT OR
	Alexandria, VA 22313-1450		TRADEMARK

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District, GA, Atlanta on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 1:07-cv-1798-JEC	DATE FILED 7/31/2007	U.S. DISTRICT COURT Northern District, GA, Atlanta Division
PLAINTIFF MERGE eMED, INC.		DEFENDANT VIRTUAL RADIOLOGIC CORPORATION
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 SEE ATTACHED		
2 5,513,101		
3 5,655,084		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT		
CLERK	(BY) DEPUTY CLERK	DATE

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C., Atlanta

JUL 31 2007

JAMES N. WITTEN, Clerk
By *[Signature]*
Deputy Clerk

MERGE EMED, INC., f/k/a EMED
TECHNOLOGIES CORPORATION, a
corporation organized and existing
under the laws of the state of Delaware

Plaintiff

Civil Action No.

1:07-CV-1798

v.

COMPLAINT

VIRTUAL RADIOLOGIC
CORPORATION, a corporation
organized and existing under the laws
of the state of Delaware

JURY TRIAL DEMANDED

JEC

Defendant.

COMPLAINT

Plaintiff Merge eMed, Inc., f/k/a eMed Technologies Corporation,
("Merge eMed") files this its Complaint against Defendant Virtual Radiologic
Corporation ("Defendant VRC"), showing this Court as follows.

NATURE OF THE ACTION

1. This is an action for patent infringement, arising out of
Defendant VRC's infringement of Merge eMed's U.S. patents relating to the art
of "teleradiology." Conventional radiologic services are traditionally site-
based, where the services are performed for a hospital or other healthcare

facility by an on-site provider, such as a radiologist. Often, however, the on-site provider does not have the ability or capacity to provide the desired breadth of radiological services. Teleradiology is the process of gathering radiologic images and related information (collectively, the "Radiologic Study") at a hospital or other healthcare facility and transmitting the Radiologic Study to one or more other sites where the images and information are analyzed. Teleradiology, among other things, allows Radiologic Studies from various healthcare facilities to be processed through a central location and, among other things, to be analyzed by radiologic service providers who practice in relevant specialties that might otherwise be unavailable to the healthcare facility.

THE PARTIES

2. Plaintiff Merge eMed is a corporation organized and existing under the laws of the state of Delaware.

3. Upon information and belief, Defendant VRC is a corporation organized and existing under the laws of the state of Delaware with its principal place of business in Minnesota. The Georgia Secretary of State's website states that Defendant VRC maintains a registered agent for service of process in this District, CT Corporation at 1201 Peachtree Street, NE, Atlanta, Georgia 30361. Further, upon information and belief, Defendant VRC has entered into an agreement with at least one hospital or other health care facility

located within this District. Further, upon information and belief, Defendant VRC has entered into an agreement with one or more physicians or groups of physicians specializing in radiologic services who have offices located within this District.

JURISDICTION AND VENUE

4. This court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338.

5. This Court has personal jurisdiction over Defendant VRC as, upon information and belief, it has engaged in systematic activities within the District.

6. Venue is proper in the Atlanta Division of the Court pursuant to 28 U.S.C. §§ 1391(b) and 1400(b).

OPERATIVE FACTS

7. Merge eMed, as a successor in interest to Access Radiology Corporation, is the owner by assignment of all rights in and title to U.S. Patent No. 5,513,101, entitled Radiological Image Interpretation Apparatus and Method, (the "'101 Patent"). The '101 Patent claims, among other things, novel methods for providing teleradiology services.

8. Merge eMed, as a successor in interest to Access Radiology Corporation, is the owner by assignment of all rights in and title to U.S. Patent No.

5,655,084, entitled Radiological Image Interpretation Apparatus and Method, (the "'084 Patent"). The '084 Patent is a continuation of the '101 Patent and claims, among other things, additional novel methods for providing teleradiology services.

9. From a time presently unknown to Merge eMed through the present, Defendant VRC has provided teleradiology services to the general public.

10. Upon information and belief, Defendant VRC's provision of such teleradiologic services utilize Merge eMed's novel method taught in at least claim 1 of the '101 Patent.

11. Upon information and belief, Defendant VRC's provision of such teleradiologic services utilize Merge eMed's novel system taught in at least claim 21 of the '101 Patent.

12. Upon information and belief, Defendant VRC's provision of such teleradiologic services utilize Merge eMed's novel method taught in at least claim 1 of the '084 Patent.

13. Upon information and belief, Defendant VRC's provision of such teleradiologic services utilize Merge eMed's novel system taught in at least claim 17 of the '084 Patent.

14. Counsel for Merge eMed's parent corporation, Merge Technologies, Inc., contacted Defendant VRC via letter dated April 20, 2007, advising Defendant VRC about the existence of the '101 and '084 Patents.

15. Despite receiving notification of the '101 and '084 Patents, Defendant VRC has continued to provide teleradiologic services that infringe the methods and systems claimed in these patents.

16. All conditions precedent to the assertion of the claims set forth below have been satisfied or waived.

COUNT I

(Patent Infringement—'101 Patent)

17. Merge eMed incorporates by reference as if fully set forth herein the averments and allegations set forth in paragraphs 1 through 16, above.

18. By reason of some or all of the foregoing, Defendant VRC has directly infringed the '101 Patent.

19. By reason of some or all of the foregoing, Defendant VRC has contributorily infringed, and/or induced the infringement of, the '101 Patent.

20. Upon information and belief, Defendant VRC's infringement of the '101 Patent has been willful.

21. Merge eMed has suffered damages as a direct and proximate result of Defendant VRC's infringement of the '101 Patent.

COUNT II

(Patent Infringement—'084 Patent)

22. Merge eMed incorporates by reference as if fully set forth herein the averments and allegations set forth in paragraphs 1 through 16, above.

23. By reason of some or all of the foregoing, Defendant VRC has directly infringed the '084 Patent.

24. By reason of some or all of the foregoing, Defendant VRC has contributorily infringed, and/or induced the infringement of, the '084 Patent.

25. Upon information and belief, Defendant VRC's infringement of the '084 Patent has been willful.

26. Merge eMed has suffered damages as a direct and proximate result of Defendant VRC's infringement of the '084 Patent.

WHEREFORE, Merge eMed prays that this Court:

- (1) Enter judgment in favor of Merge eMed and against Defendant VRC for infringement of the '101 Patent;
- (2) Award damages to Merge eMed in an amount to be proven at trial for infringement of the '101 Patent, pursuant to 35 U.S.C. § 284;
- (3) Enter judgment in favor of Merge eMed and against Defendant VRC for infringement of the '084 Patent;

- (4) Award damages to Merge eMed in an amount to be proven at trial for infringement of the '084 Patent, pursuant to 35 U.S.C. § 284;
- (5) Increase Merge eMed's damages three-fold in light of Defendant VRC's willful infringement, pursuant to 35 U.S.C. § 284;
- (6) Find this action to be an exceptional case and require Defendant VRC to pay to Merge eMed the costs of this action and its reasonable attorneys' fees, pursuant to 35 U.S.C. § 285;
- (7) Enjoin Defendant VRC and all agents, officers, employees, representatives, successors, assigns, attorneys, and all other persons acting for, with, by, through, or under authority from Defendant VRC, or in concert or participation with Defendant VRC, from manufacturing, using, selling, or offering to sell articles or services that infringe the '101 Patent, pursuant to 35 U.S.C. § 283;
- (8) Enjoin Defendant VRC and all agents, officers, employees, representatives, successors, assigns, attorneys, and all other persons acting for, with, by, through, or under authority from Defendant VRC, or in concert or participation with Defendant VRC, from manufacturing, using, selling, or offering to sell articles or services that infringe the '084 Patent, pursuant to 35 U.S.C. § 283;
- (9) This case be tried before a jury; and

- (10) Merge eMed have such other and further relief as the Court deems appropriate, just, and proper, premises considered.

Respectfully submitted,

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